IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of Case

Appeal from Order No. 226 of 2006

Date of decision:- 12th April, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date 12.4.2006. Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 226 of 2006

1. Smt. Moolwati W/o Late Ram Prashad
2. Jai Prakash S/o Late Ram Prashad
3. Dinesh Kumar S/o Late Ram Prashad
4. Govind Kumar minor S/o Late Ram Prashad
(Appellant No. 4 being minor through their mother
& natural guardian Smt. Moolwati W/o Late Ram Prashad),
at present R/o Durga Colony,
Tehsil Kashipur,
District Udham Singh Nagar. …… Appellants

Versus

Uttaranchal Road Transport Corporation,
Regional Office Nainital,
Through Regional Manager. …… Respondent

Mr. B.S. Parihar, Advocate on behalf of Mr. Ram Kishor Arya, Advocate for the appellants.
Mr. A.N. Sharma, Advocate for the respondent.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. P.C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr.B.S. Parhiar, Advocate on behalf of Mr. Ram Kishore Arya, Advocate for the appellants.

Mr. A.N. Sharma, Advocate for the respondent.

They are heard on admission.

2. This is claimants' appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal / District Judge, Udham Singh Nagar vide Award dated 13.01.2006 passed in MACP No. 213 of 2004.

3. The mother and brothers of deceased Sunil Kumar claimed compensation of Rs. 5,51,000/- (Rupees Five Lakhs and Fifty One Thousand only) for his death in the motor accident on 01.09.2004 when the Bus bearing registration No. UP 15 E 7863, in which he was traveling with his sister from Nazibabad to Haridwar, met with an

accident due to the rash and negligent driving of its driver and resulted in serious injuries to Sunil Kumar leading to his death. The claimants further pleaded that Sunil Kumar used to earn Rs. 4,000/- per month by selling cloths.

4. Respondent Uttaranchal Road Transport Corporation contested the claim and pleaded that the accident did not occur on account of the negligence of the driver of the bus, but it was due to sudden failure of the steering and as such, the Corporation is not liable to pay compensation to the claimants.

5. The Tribunal, on the evidence led by the parties, held that Sunil Kumar died on account of the injuries sustained by him in the accident and that the accident occurred due to rash and negligent driving of the driver of the Bus. The Tribunal, therefore, held respondent Uttaranchal Road Transport Corporation liable to pay compensation to the claimants. As the evidence led by the claimants about the income of the deceased was not found reliable, the Tribunal assessed his income at Rs. 2,500/- per month and Rs. 30,000/- per annum. By deducting 1/3rd of the said amount as his personal expenses, the claimants' dependency was assessed at Rs. 20,000/- per annum. By multiplying the annual dependency of Rs. 20,000/- with the multiplier of 12, the compensation was worked out to Rs. 2,40,000/-. The Tribunal further awarded Rs. 2,000/- towards Funeral Expenses and Rs. 2,000/- towards Loss of Estate. Thus, a total sum of Rs. 2,44,000/- was awarded as compensation to the claimants for the death of Sunil Kumar in the motor accident. The Tribunal awarded interest at the rate of 6% per annum from the date of the application i.e. 23.09.2004.

6. Mr. B.S. Parihar, the learned counsel for the appellants vehemently argue that the Tribunal has erred in discarding the claimants' evidence about the income of the deceased and in assessing his income at Rs. 2,500/- per month only.

7. Though the claimants pleaded that deceased Sunil Kumar used to earn Rs. 4,000/- per month by selling clothes, no reliable evidence was led before the Tribunal to establish the same. In this state of evidence, no fault can be found with the assessment of the income of the deceased by the Tribunal at Rs. 2,500/- per month and Rs. 30,000/- per annum. The multiplier of 12 selected by the Tribunal is rather on the higher side in view of the dictum of the Apex Court in the case of **Municipal Corporation of Greater Bombay Vs. Laxman Iyer and another** reported in **(2003) 8 SCC 731,** wherein it has been held that in the cases where the claimants are parents, the multiplier of 10 only is appropriate.

8. Thus, we do not find any scope for enhancement of the compensation awarded by the Tribunal either on account of the income of the deceased or the claimants' dependency assessed by the Tribunal or the multiplier selected.

9. The appeal filed under Section 173 of the Motor Vehicles Act, therefore, fails and is, dismissed summarily.

(P.C. Pant, J.) **(Rajeev Gupta, C.J.)**
12.04.2006 **12.04.2006**

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